

210324

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**  
**ORDER**

Application 23120   Permit 15818   License 10324

**ORDER AMENDING THE LICENSE BY ADDING  
MEASURING DEVICE CONDITIONS, CORRECTING THE  
PLACE OF USE AND POINT OF DIVERSION DESCRIPTIONS  
AND ADDING STANDARD LICENSE TERMS**

**WHEREAS:**

1. License 10324 was issued to Wilton P. Husch and Gretchen P. Husch, etal on July 3, 1974, pursuant to Application 23120 and was recorded with the County Recorder of Mendocino County on July 8, 1974, in Book 968, Page 309.
2. License 10324 was subsequently assigned to Hugo A. Oswald, Jr. and Beatrice S. Oswald on October 3, 1979.
3. License 10324 was subsequently assigned to Hugo A. Oswald, Jr., Beatrice S. Oswald, Miles S. Oswald and Tracy L. Oswald on November 21, 1996.
4. The Division of Water Rights (Division) conducted an inspection of the project covered by License 10324 on March 11, 1999. This inspection found that there has been no physical change in the licensed place of use, but the description shown on the license is incorrect. The inspection also found that the licensee has no satisfactory means to ensure compliance with the existing license term requiring bypass of stream flow for the protection of a steelhead fishery.
5. The State Water Resources Control Board (SWRCB) has determined that in order to ensure continued compliance with an existing condition of the license requiring bypass of water to protect the steelhead fishery of the Navarro River, additional terms and conditions in License 10324 are necessary.
6. The SWRCB will correct the described place of use and point of diversion authorized by License 10324.
7. The SWRCB will also add its standard continuing authority and water quality objective terms and a term to prevent any act which results in the taking of a threatened or endangered species that have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

**NOW, THEREFORE, IT IS ORDERED THAT:**

The following terms and conditions be added to License 10324:

1. The place of use authorized by this license will be corrected as follows:

5.0 acres within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 3, T14N, R15W, MDB&M  
30.0 acres within SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 3, T14N, R15W, MDB&M  
5.0 acres within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 3, T14N, R15W, MDB&M  
40.0 acres total, as shown on a map on file with the State Water Resources  
Control Board

2. The point of diversion authorized by this license will be corrected as follows:

By California Coordinates, Zone 2, North 525,600 and East 1,574,221, being within NW $\frac{1}{4}$  of  
SE $\frac{1}{4}$  of Section 3, T14N, R15W, MDB&M.

3. The following measuring device and monitoring requirement of the amounts diverted under this license is added as follows:

Licensee shall install and maintain a measuring device, satisfactory to the Chief of the Division of Water Rights, which is capable of measuring the bypass flows required by the conditions of this license. Licensee shall maintain a record of the end-of-the-month bypass flow measured at this device from March 15 to October 1 of each year. Licensee shall submit these monthly readings with the triennial report of licensee or whenever requested by the Division of Water Rights. In lieu of a measuring device and monitoring, licensee can permanently set the intake of the pumping plant at an elevation above the natural stream channel which ensures continuous bypass of the flow required by this license. The flow measurements to establish the necessary elevation of the pump intake shall be made by a registered engineer and approved by the Chief of the Division of Water Rights.

4. The continuing authority condition shall be updated to read as follows:

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of the licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth;

and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

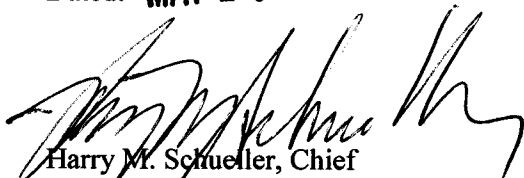
5. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

6. An endangered species term shall be added to read as follows:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

Dated: **MAY 10 2000**



Harry M. Schueller, Chief  
Division of Water Rights

L10324

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

Application 23120 Permit 15818 License 10324

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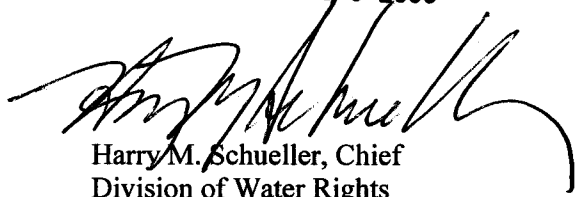
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Dated: MAY 1, 0 2000



Harry M. Schueller, Chief  
Division of Water Rights

ORDER (10/98)

u:\comdrv\droderick\final\23120 order final



STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

## License for Diversion and Use of Water

APPLICATION 23120

PERMIT 15818

LICENSE 10324

THIS IS TO CERTIFY, That

WILTON P. HUSCH AND GRETCHEN P. HUSCH  
P. O. BOX 114, PHILO, CALIFORNIA 95466

*Over*

HAVE made proof as of AUGUST 30, 1973 (the date of inspection)  
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of  
NAVARRO RIVER IN MENDOCINO COUNTY

tributary to PACIFIC OCEAN

for the purpose of IRRIGATION AND FROST PROTECTION USES  
under Permit 15818 of the Board and that the right to the use of this water has been perfected  
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the  
priority of this right dates from AUGUST 28, 1968 and that the amount of water to which  
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated  
purposes and shall not exceed TWO HUNDRED EIGHTEEN-THOUSANDTHS (0.218) CUBIC FOOT PER  
SECOND, TO BE DIVERTED FROM MARCH 15 TO OCTOBER 1 OF EACH YEAR. SO LONG AS THERE  
IS NO INTERFERENCE WITH OTHER RIGHTS, JUNIOR, AS WELL AS SENIOR, LICENSEE MAY IN-  
CREASE HIS RATE OF DIVERSION TO A MAXIMUM OF 3 CUBIC FEET PER SECOND; PROVIDED  
THAT THE TOTAL QUANTITY DIVERTED IN ANY 30-DAY PERIOD DOES NOT EXCEED 13 ACRE-Feet.  
THE MAXIMUM AMOUNT DIVERTED UNDER THIS LICENSE SHALL NOT EXCEED 84 ACRE-Feet PER  
YEAR.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

DUE SOUTH 650 FEET FROM CENTER CORNER OF SECTION 3, T14N, R15W, MDB&M, BEING WITHIN  
NW1/4 OF SE1/4 OF SAID SECTION 3.

A DESCRIPTION OF LANDS OR THE PLACE WHERE  
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

31 ACRES WITHIN SW1/4 OF NE1/4 OF SECTION 3, T14N, R15W, MDB&M  
9 ACRES WITHIN NW1/4 OF NE1/4 OF SECTION 3, T14N, R15W, MDB&M

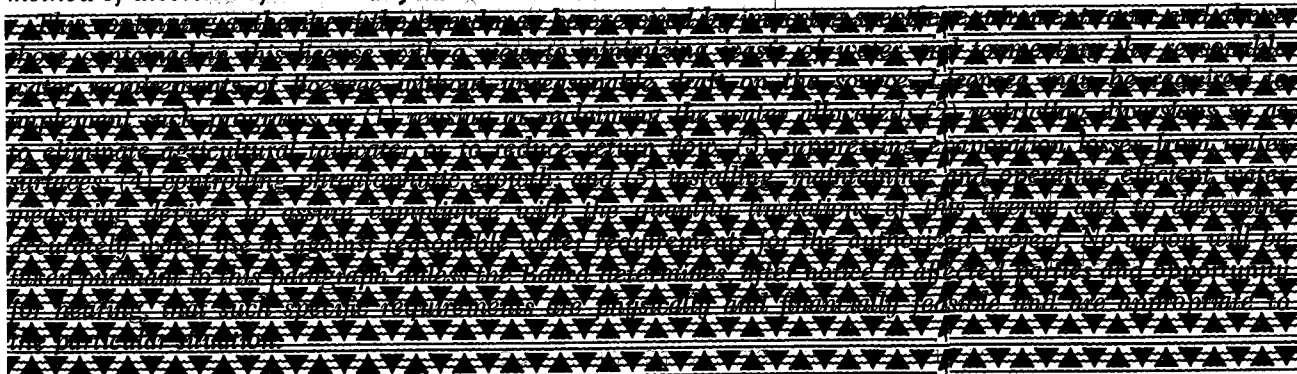
40 ACRES TOTAL

UPON A JUDICIAL DETERMINATION THAT THE PLACE OF USE UNDER THIS LICENSE OR A  
PORTION THEREOF IS ENTITLED TO THE USE OF WATER BY RIPARIAN RIGHT, THE RIGHT SO  
DETERMINED AND THE RIGHT ACQUIRED UNDER THIS LICENSE SHALL NOT RESULT IN A  
COMBINED RIGHT TO THE USE OF WATER IN EXCESS OF THAT WHICH COULD BE CLAIMED UNDER  
THE LARGER OF THE TWO RIGHTS.

FOR THE PROTECTION AND PRESERVATION OF FISHLIFE, LICENSEE SHALL BYPASS PAST THE DIVERSION SITE ON NAVARRO RIVER, 20 CUBIC FEET PER SECOND OR THE NATURAL FLOW, WHICHEVER IS LESS, FROM MARCH 1 THROUGH MAY 30; AND 8 CUBIC FEET PER SECOND, OR THE NATURAL FLOW, WHICHEVER IS LESS, FROM JUNE 1 THROUGH SEPTEMBER 30.

*Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.*

*All rights and privileges under this license, including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water, AND TO CARRY OUT LEGALLY ESTABLISHED WATER QUALITY OBJECTIVES.*



*Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.*

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: JUL 13 1974

STATE WATER RESOURCES CONTROL BOARD

*R. L. Rosenberger*  
Acting Chief, Division of Water Rights



L10324

10-3-79 Asgd to Hugo S. Jr. & Beatrice S. Oswald

11/21/96 Asgd: App#~~23~~<sup>23,20</sup>120 Lic#10324  
Hugo S. Oswald Jr. Beatrice S. OSwald,  
Miles S. Oswald & Tracy Oswald

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